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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

PETER DELVECCHIA, *et al.*,

Plaintiffs,

Vs.

FRONTIER AIRLINES, INC., *et al.*,

Defendants.

**Case No: 2:19-CV-01322-KJD-DJA**

**PLAINTIFF'S MOTION FOR LEAVE  
TO EXCEED PAGE LIMIT FOR  
RESPONSE TO DEFENDANTS' MOTION  
FOR SUMMARY JUDGMENT**

Plaintiffs, Peter DelVecchia individually and as next friend of A. D., a minor ("A.D."), by counsel, respectfully move this Honorable Court, pursuant to Local Rule 7-3(c), for an order permitting them to exceed the page limits on their Response to Defendants' Motion for Summary Judgment (ECF No. 266). This Motion is made and based upon the following memorandum of points and authorities, and all other pleadings and papers filed herein.

**PLAINTIFFS' MOTION FOR LEAVE TO EXCEED PAGE LIMIT FOR RESPONSE TO  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. LEGAL STANDARD**

LR 7-3 dictates that a response to a motion for summary judgment shall not exceed 30 pages. This Court has authority to relax or modify this rule, however, and may permit a party to file a brief in excess of the page limit. *Id.*; *Veterinary Ventures, Inc. v. Farris*, 2010 WL 3070423, \*2 (D. Nev. Aug. 3, 2010) (citing *Gennock v. Warner-Lambert Co.*, 208 F. Supp. 2d 1156, 1158 (D. Nev. 2002)). This is a heavily fact-intensive matter involving federally-protected civil rights of considerable importance; thus, there is good cause to allow Plaintiffs to file a response in excess of the 30-page limit. *See Rice v. City of N. Las Vegas*, Case No. 2:20-cv-1542-JCM-DJA, 2023 U.S. Dist. LEXIS 167074, \*10 (D. Nev. Sept. 20, 2023) (granting leave to file 39-page MSJ response where “the incident spanned more than four hours, involved seventy police officers, and discovery has been exhaustive”); *Veterinary Ventures, Inc. v. Farris*, 2010 U.S. Dist. LEXIS 91485, \*5 (D. Nev. Aug. 3, 2010) (citing *Gennock v. Warner-Lambert Co.*, 208 F. Supp. 2d 1156, 1158 (D. Nev. 2002)) (noting that “the Court has the authority to modify or relax” page limits). Plaintiffs respectfully request that the Court find good cause and grant Plaintiffs leave to file a Response of 51 pages or fewer. This Motion is supported by the attached Declaration of John D. McKay filed herewith.

**II. ARGUMENT**

This matter—stemming from a March 28, 2019 incident on board a Frontier Airlines flight—brings six<sup>1</sup> causes of action: a 42 U.S.C. § 1981 claim and five Nevada tort claims. (McKay Decl., ¶¶ 2-3.) Plaintiffs will be filing their response to Defendants’ Motion for Summary Judgment (ECF No. 266) on or before November 30, 2023.<sup>2</sup> The instant motion requests leave from this Court to permit Plaintiffs to exceed the 30-page limit set forth in LR 7-3.

This is an extremely fact-intensive matter in multiple respects. First the incident took place on a crowded airplane, thus necessitating interviews and depositions of numerous passenger witnesses. (McKay Decl., ¶ 4.) Further, the six crew members involved conveyed six different versions of the

<sup>1</sup> The number of causes of action is variously referred to as five or six, as the operative complaint lists both assault and battery under the same count.

<sup>2</sup> Pending Court approval of a stipulation extending this deadline two weeks from the current deadline of November 16, 2023.

1 events at issue in addition to Plaintiffs' version. (McKay Decl., ¶ 5.) Other Frontier agents working at  
2 Las Vegas's international airport were also involved in the facts of the case. (McKay Decl., ¶ 6.) The  
3 LVMPD officer who met the flight was also deposed. (McKay Decl., ¶ 7.) And, Plaintiffs' § 1981  
4 claims involved examination of the 325 previous complaints of discrimination against Frontier, as well  
5 as depositions of the Frontier employees who handled the complaints. (McKay Decl., ¶ 8.) Over the  
6 four years of discovery in this matter, 42 depositions were taken and Frontier produced thousands of  
7 pages of documents, many of which contain facts relevant to Plaintiffs' claims. (McKay Decl., ¶ 9.)

8 Defendants' motion seeks to dispose of all of Plaintiffs' claims, and therefore Plaintiffs must  
9 demonstrate that genuinely disputed issues of material fact exist with regard to all six claims. (McKay  
10 Decl., ¶ 10.) Indeed, there are nearly 100 separate, relevant facts which, when set forth in the format  
11 mandated by the Local Rules, consume slightly over 25 pages. (McKay Decl., ¶ 11.) Due to the  
12 complexity of Plaintiffs' claims and the dense, voluminous facts in this case, it would be difficult to  
13 Plaintiffs to present their arguments sufficiently in the 30-page limit, even if the Statement of Facts  
14 did not already count toward this page limit. (McKay Decl., ¶ 12.) Therefore, for good cause, this  
15 Court should permit Plaintiff to submit a response to motion for summary judgment in excess of the  
16 page limit set forth in LR 7-3.

17 Plaintiffs acknowledge that motions for excess pages are disfavored, and appreciate the need  
18 for filings to conform to the Local Rules. However, Plaintiffs' positions could not be adequately  
19 advocated within the 30-page limits, and the interests of justice therefore require excess pages. *See* LR  
20 IA 1-4 (allowing modifications "if the interests of justice so require"). Plaintiffs thus respectfully  
21 request leave to file a response of up to 51 pages in length, exclusive of exhibits, table of authorities  
22 and table of contents. Plaintiffs have endeavored to be concise and well-organized in their response to  
23 Defendants' motion and are continuing to edit down. Counsel has worked diligently to pare the  
24 Statement of Facts down to just approximately over 25 pages, a reduction of 10 pages from the  
25 original. (McKay Decl., ¶ 11.) But given that there are five causes of action that Plaintiffs need to  
26 support—since Defendants' motion seeks dismissal of the entire action—and the need to address facts  
27 that support both the *prima facie* case and the evidence of pretext needed under the *McDonnell*  
28 *Douglas* procedure, and since there were six different versions of the facts presented by the six flight

crew members, plus Plaintiffs’ versions, important deposition testimony from 10 passengers, two ground handlers, a responding LVMPD supervisor, five members of Frontier’s “Denver Team,” seven doctors, three experts and several other necessary witnesses, it is not possible to present the facts in any fewer pages than the 25 currently used. (*See generally* McKay Decl.)

On such facts, a motion for excess pages is appropriately granted. *Cf. Coleman v. Las Vegas Metro. Police Dep’t*, No. 2:20-cv-00739-JAD-BNW, 2023 U.S. Dist. LEXIS 162971, at \*2 (D. Nev. Sep. 14, 2023) (granting motion to file 65 page motion for summary judgment where complaint contained multiple (6) claims and parties and where numerous legal issues such as immunity were also at play).

In the current draft there are approximately 25 pages of argument following the Statement of Facts, for a total of 51 pages. Twenty-five pages of argument in a case of this complexity is not unreasonable. Counsel is continuing to edit and will be as concise as possible.

### III. CONCLUSION

Based on the foregoing, Plaintiffs respectfully request leave to file a response in opposition to Defendants’ Motion for Summary Judgment (ECF No. 266) which is at most 51 pages in length.

Dated this 21<sup>st</sup> day of November, 2023.

/s/ Margaret A. McLetchie

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